

State May Take VAAP to Court In Water Dispute

71-5-74 p.1
By FRED TRAVIS
Chattanooga Times Bureau

NASHVILLE—The state water quality control board apparently is going to seek a federal court order requiring the Volunteer Army Ammunition Plant at Tyner to comply with state—and federal—water quality standards.

S. Leary Jones, the board's executive secretary, said that seems the only course available in view of Justice Department refusal to approve settlement of pending litigation through a consent decree.

Charles Cary, a staff attorney for the board, said he and assistant state Atty.-Gen. William B. Hubbard are seeking a conference with assistant U.S. Rtty. Gen Wallace Johnson in hope of getting the agreement approved. But he didn't sound optimistic about the prospects.

If that fails, Jones said, the board will proceed in federal district court at Chattanooga to seek trial of a suit filed against VAAP last October.

The state health department has been trying for years to halt pollution of Waconda Bay on the Tennessee River by the waste water discharged by the plant, which produces TNT for the Army.

Last May 31 state public health Commissioner Eugene W. Fowinkle, chairman of the water quality board, issued an order to force compliance with state standards effective at the start of 1976. The Army appealed that order to the water quality board.

While the appeal was pending, the Army promised to meet state standards by next October and pledged that waste water discharged prior to that time wouldn't be any worse than during April 1973.

Jones said the VAAP hadn't met that temporary standard and now the effort to settle litigation through a consent decree has been frustrated by the Justice Department.

Cary said the suit was filed under a 1972 amendment to the Water Pollution Control Act requiring that federal facilities must comply with state water quality standards. The only exceptions permitted is where the President certifies that the paramount interest of the U.S. requires that certain specified facilities be allowed to exceed the standards.

No Exemption

"So far as we know, the President hasn't issued an exemption for VAAP," Jones said. "Federal water quality standards are the same as the state standards, but the federal Environmental Protection Agency only recently in the Chattanooga area has taken steps to obtain compliance by federal agencies."

"The Army is constructing a

new TNT plant at Tyner to replace the older facility, but it never filed an environmental impact statement, as required by law, nor was any assessment ever made of the likely impact on the environment. Apparently some of the federal bureaucrats feel that the laws applicable to everyone else doesn't apply to them."

Strongly Acid

Jones said the waste water discharged by VAAP contains nitrogen, ammonia and other chemicals. The effluent is strongly acid and to combat this it is treated with lime.

"The trouble is that sometimes the discharge has an acid quality and subsequently an alkaline quality," Jones said. "The fish in Waconda Bay simply can't stand this constant seesaw effect."

"Sometimes the discharge kills the algae in Waconda Bay. The dead algae decay, consuming the oxygen in the water and this kills the fish."

"But the main public complaint has been the discoloration of the Waconda Bay water," he continued. "The waste water from the VAAP turns a bright red in the sunlight." Jones said he thought it would take the Army until 1976 to meet state and federal water quality standards, "but they told us they could do it by next October."

Quickly Accepted

"Naturally we were delighted to hear that, and we quickly accepted their proposal that they do so," he said.

As the state board's secretary explained it, the Army is building a new TNT plant at Tyner to replace the existing one. It wants to operate both plants simultaneously for about 18 months, at the end of which the older one will be closed out.

The new plant is more modern and would require less in the way of waste water treatment facilities, Jones said he was told. The Army wants to build the lesser treatment plant for the new facility rather than the more extensive plant required to take care of the waste from both the TNT operations.

"We are going to make one more attempt in Washington to

get an agreement on this thing approved by the justice department," Jones said. "If we don't then there's nothing to do but proceed in the federal court at Chattanooga and find out whether the law Congress enacted applies to federal agencies the way the Congress said it should."

Very likely if the state wins in its suit against the VAAP operation it will proceed against other federal agencies.

CHATTANOOGA COUNTY LIBRARY
1000 MARKET STREET
CHATTANOOGA, TENN. 37402